Karnan a/l Rajanthiran & Ors v Firdaus Wong Wai Hung

HIGH COURT (KUALA LUMPUR) — ORIGINATING SUMMONS NO WA-24–84–09 OF 2024
AMARJEET SINGH J
3 MARCH 2025

Civil Procedure — Injunction — Mandatory interim injunction — Muslim convert and self-proclaimed preacher uploaded video on social media advising how underaged non-Muslim children could be secretly converted to Islam without their parents' knowledge — Preacher knew that what he suggested contravened right to religion in art 12(4) Federal Constitution — Whether plaintiff parents of underaged non-Muslim children had ample cause to seek mandatory interim injunction directing preacher to forthwith take down impugned video from his social media accounts — Whether there was bona fide issue to be tried and high probability similar injunction would be granted at trial — Whether justice of case and balance of convenience favoured grant of injunction

The defendant, a Muslim convert and self-proclaimed Islamic preacher, had uploaded a video titled 'saya takut mati luar Islam' on his social media accounts suggesting, inter alia, how underaged non-Muslim children could be converted to Islam in secret without their parents' knowledge. In the video, the defendant suggested that such clandestine conversions should not be registered. He also proposed ways in which the converted children could perform their obligatory prayers without others knowing about it. Alarmed by the video, the plaintiffs, who were parents of under-aged non-Muslim children who were either studying at, or were about to join, national or vernacular schools in Malaysia, lodged police reports against the defendant and filed the instant action to, inter alia, obtain a mandatory interim injunction directing the defendant to immediately take down the video from all his social media accounts. Despite the lodging of several police reports, the video remained accessible on the defendant's various social media accounts with a viewership that touched 190,800 including from various non-governmental organisations who strongly condemned its content.

Held, granting the mandatory interim injunction sought by the plaintiffs:

(1) The defendant did not dispute the contents of the video in which he advised how under-aged non-Muslim children could be converted to Islam in secret without their parents or families knowing about it (see paras 16–17).

(2) What the defendant suggested in the video breached art 12(4) of the Federal Constitution ('the FC') which provided that the religion of a

person under the age of 18 years shall be decided by his parent or guardian. The video showed that the defendant knew that his advice breached the FC (see para 18).

(3) There was a serious bona fide issue to be tried, ie, whether the defendant's advice in the video breached the right entrenched in art 12(4) of the FC. The balance of convenience and the justice of the case lay in favour of the plaintiffs. If the mandatory interim injunction was not granted, the plaintiffs stood to suffer a risk of irreparable damage if any of their children was converted to Islam without their knowledge, in which event damages were not an adequate remedy. In contrast, the defendant's rights over the video were merely postponed until after the disposal of the instant originating summons. The injury to the plaintiffs was higher if the video was not taken down (see paras 19–21).

(4) The case for granting the mandatory interim injunction was unusually strong and clear, especially because of the fact that the defendant knew that his advice violated art 12(4) of the FC. There was a high degree of assurance that at the trial, a similar injunction would probably be granted (see para 22).

[Bahasa Malaysia summary

Defendan, seorang mualaf dan mengaku dirinya sebagai pendakwah Islam, telah memuat naik video bertajuk 'saya takut mati luar Islam' di akaun media sosialnya yang mencadangkan, antara lain, bagaimana kanak-kanak bukan Islam di bawah umur seharusnya boleh memeluk Islam secara rahsia tanpa pengetahuan ibu bapa mereka. Dalam video itu, defendan mencadangkan penukaran rahsia sedemikian tidak harus didaftarkan. Beliau juga mencadangkan cara kanak-kanak mualaf boleh menunaikan solat fardu tanpa diketahui orang lain. Bimbang dengan video itu, plaintif, yang merupakan ibu bapa kepada kanak-kanak bukan Islam di bawah umur yang sama ada belajar di, atau akan memasukki sekolah kebangsaan atau vernakular di Malaysia, membuat laporan polis terhadap defendan dan memfailkan tindakan segera untuk, antara lain, mendapatkan injunksi interim mandatori yang mengarahkan defendan untuk segera memadamkan video daripada semua akaun media sosialnya. Walaupun beberapa laporan polis dibuat, video itu tetap boleh diakses di pelbagai akaun media sosial defendan dengan jumlah penonton yang mencecah 190,800 termasuk daripada pelbagai pertubuhan bukan kerajaan yang mengecam sekeras-kerasnya kandungannya.

Diputuskan, membenarkan injunksi interim mandatori yang diminta oleh plaintif:

(1) Defendan tidak mempertikaikan kandungan video di mana dia menasihati bagaimana kanak-kanak bukan Islam di bawah umur boleh

memeluk Islam secara rahsia tanpa diketahui oleh ibu bapa atau keluarga mereka (lihat perenggan 16–17).

(2) Perkara yang dicadangkan oleh defendan dalam video itu melanggar perkara 12(4) Perlembagaan Persekutuan ('PP') yang memperuntukkan bahawa agama seseorang di bawah umur 18 tahun hendaklah diputuskan oleh ibu bapa atau penjaganya. Video itu menunjukkan bahawa defendan tahu bahawa nasihatnya melanggar PP (lihat perenggan 18).

(3) Terdapat isu bona fide yang serius untuk dibicarakan, iaitu, sama ada nasihat defendan dalam video itu melanggar hak yang termaktub dalam perkara 12(4) PP. Imbangan kemudahan dan keadilan kes memihak kepada plaintif. Sekiranya injunksi interim mandatori tidak dibenarkan, plaintif akan menghadapi risiko kerosakan yang tidak boleh diperbaiki jika mana-mana anak-anak mereka memeluk Islam tanpa pengetahuan mereka, di mana ganti rugi sekiranya berlaku bukanlah remedi yang mencukupi. Sebaliknya, hak defendan ke atas video itu hanya ditangguhkan sehingga selepas pelupusan saman pemula semasa. Kerugian kepada plaintif adalah lebih tinggi jika video itu tidak diturunkan (lihat perenggan 19–21).

(4) Kes untuk membenarkan injunksi interim mandatori adalah luar biasa kuat dan jelas, terutamanya kerana fakta bahawa defendan tahu bahawa nasihatnya melanggar perkara 12(4) PP. Terdapat tahap jaminan yang tinggi bahawa pada perbicaraan, injunksi yang sama mungkin akan diberikan (lihat perenggan 22).]

Cases referred to

Gibb & Co v Malaysia Building Society Bhd [1982] 1 MLJ 271, FC (refd)
Karuppannan v Balakrishnen (Chong Lee Chin & Ors, third parties) [1994] 3 MLJ 584; [1994] 4 CLJ 479, FC (refd)
Timbermaster Timber Complex (Sabah) Sdn Bhd v Top Origin Sdn Bhd [2002] 1 MLJ 33; [2002] 1 CLJ 566, CA (refd)
Tinta Press Sdn Bhd v Bank Islam Malaysia Bhd [1987] 2 MLJ 192; [1987] CLJ Rep 396, SC (refd)

Legislation referred to

Federal Constitution art 12(4)

Visvanathan a/l Murugiah (Sanjay Nathan Visvanathan and Pushan Qin Nathan Visvanathan with him) (Saibullah MV Nathan & Co) for the plaintiffs.
Mohd Norazali bin Nordin (Syahidah Hanum bt Mohd Ghazali with him) (Syahidah Sharul & Marsyara) for the defendant.

Amarjeet Singh J:

THE APPLICATION

[1] On 3 December 2024, this court granted the plaintiffs an interim mandatory injunction sought pursuant to an inter partes application in the following terms:

> Defendan adalah diarahkan dengan serta-merta untuk memadamkan video yang bertajuk 'saya takut mati luar Islam' yang dimuat naik daripada akaun TikTok di bawah nama @brofirdauswong (https://vt.tiktok.com/ZSYrfNxDg) daripada akaun TikTok defendan dan/atau di mana-mana akaun media sosial milik defendan yang lain.

[2] This judgment contains the reasons for my decision.

BACKGROUND FACTS

[3] The plaintiffs are parents of underage non-Muslim children who are currently studying and/or about to study in national schools and/or vernacular schools in Malaysia. The defendant is someone who claims to be and/or is known as an Islamic preacher in Malaysia.

[4] Sometime in June of 2024, the plaintiffs were made aware of a video that was uploaded from a TikTok account named of @brofirdauswong (https://vt.tiktok.com/ZFYrfNxDq). The said video was circulated via WhatsApp. A transcript of the video can be seen at exh RK1, encl 4.

[5] In the said video, the defendant had answered a question posed to him by a teacher/*ustaz*. The said teacher/*ustaz* had requested for the defendant's suggestions in relation to underage non-Muslim schoolchildren who are purportedly 'interested' in entering Islam. The said teacher/*ustaz* had stated that underage non-Muslim schoolchildren had purportedly said that they 'takut mati luar Islam'.

[6] The video shows that the defendant responding openly and clearly with the following statements:

(a) the defendant is used to receiving questions on converting underage non-Muslim children to Islam; and

(b) the defendant is used to giving advice in relation to such questions.

[7] The video then shows the defendant giving the following advice in relation to converting underage non-Muslim children to Islam:

(a) the defendant had advised for the underage non-Muslim children to be converted to Islam in secret (see para 10, encl 4):

> jadi, kalau biasa yang kes itu macam tu saya pun ada biasa terima dan nasihat yang selalu berikan kalau ada budak yang bawah 18 tahun yang nak memeluk Islam, Islamkan, syahadahkan, jangan ambil gambar, jangan ambil video, tak payah nak daftarkan.

(b) the defendant had advised for the underage non-Muslim children to be converted to Islam without registering the said conversion as it is against the laws of Malaysia (see para 11, encl 4):

> So, kalau ada student Tingkatan Tiga, Tingkatan Empat, Tingkatan Lima bawah 18 tahun dan kita kena fikir dari sudut undang-undang Malaysia kalau dikira bawah umur itu adalah contoh dia lahir 2hb Jun, ok, 2hb Jun? Kita kata 2006. 2006, 2hb Jun. Kalau hari ini dia masuk Islam, genap ke belum? Tak genap lagi sebab hari ini 1hb Jun. So, dari sudut undang-undang, kalau dibawa ke Mahkamah, apa yang akan berlaku adalah dia akan kalah. So, tetap tak boleh. Dia kena on the dot. So, kalau budak-budak itu nak masuk Islam, saya akan sarankan ustaz, cikgu-cikgu di sekolah itu syahadahkan saja, ajarkan dia tentang Islam.

(c) the defendant had advised to hide the conversion of the underage non-Muslim children from their parents and/or families by praying in secret (see para 12, encl 4):

> So soalan seterus daripada pelajar, so soalan seterus daripada pelajar adalah macam mana dengan solat saya? Solat dengan ikut kemampuan dia. Mengikut kemampuan dia. Saya bagi contoh. Kalau dia duduk bilik sorang-sorang, ok, dia rasa dia tak boleh solat zohor dengan asar ikut waktu dia, kami akan sarankan jamak aje. Jamak Zohor dengan Asar sekali, maghrib dengan isyak jamak sekali, kalau takut tak boleh, ok? Lock pintu. Dan kalau dia kata, 'tapi tak boleh, bro.' Benda ini kami dah biasa handle. 'I ada kakak I, ada abang I dalam bilik. Macam mana I nak solat? Tak ada tempat.' Kalau boleh sebelum balik ke rumah, waktu petang, selepas zohor, dekat luar tu cuba jamakkan zohor dengan asar dulu, maghrib dengan isyak kalau kat rumah, solat ikut pergerakan dalam selimut. Kita akan ajarkan mereka macam mana pergerakan dalam selimut. Yang penting, buat. Sedangkan dia dalam, sehinggakan dalam mazhab maliki disebut boleh juga, walaupun kita kata umum, bilik air itu kita tak boleh solat tapi dalam mazhab maliki, jikalau dalam keadaan tertentu seperti mualaf, dia tak tahu keselamatan dia, nyawa dia terancam, dalam toilet sekali pun boleh solat.

[8] After being made aware of the said video that is being circulated, the plaintiffs had lodged police reports on 22 June 2024, 24 June 2024, and 18 July 2024, respectively. The said police reports can be seen at exh 11.

[9] As of 18 July 2024, the date of filing this action, the said video could still be accessed via the defendant's TikTok account as well as the defendant's other

social media accounts. As of 18 July 2024, the said video had at least 165,000 views, 3,585 comments, 3,546 likes, and 1,139 shares. As of 2 October 2024, the video can still be accessed on the defendant's TikTok account as well as the defendant's other social media accounts and has accumulated at least 190,800 views, 3,978 likes, 3,795 comments, 677 saves, and 1,187 shares.

[10] In the comments section of the defendant's video, an Indian woman had uploaded a comment in which she expressed her fear of sending her children to school. The defendant himself had responded to the said comment on 4 June 2024 with a comment that stated:

> We are everywhere. Beware.

[11] After watching the entirety of the defendant's video, the daughter of the sixth plaintiff had asked him if underaged children could enter Islam without the consent and/or knowledge of their parents. The sixth plaintiff was further informed by his children that the defendant's video had been watched and discussed by her friends at her school (see paras 6 and 7, encl 6). The sixth plaintiff informed his daughter that it is his responsibility and right as a parent to decide on his children's religion (see para 13, encl 6).

[12] The defendant's said video had received strong criticisms from several Non-Governmental Organisations ('NGOs'), including Sisters in Islam, Harapan Daily, Majlis Perundingan Agama Buddha, Kristian, Hindu, Sikh dan Taoisme Malaysia, and Global Human Rights Federation ('GHRF') (see also exh RK4, encl 4 for the media statements).

MANDATORY INTERIM INJUNCTION

[13] An interim mandatory injunction is a very exceptional form of relief and are issued only in appropriate cases. It is granted by a court of equity. The principle for the granting of an interim or interlocutory mandatory injunction is well established. Such a type of injunction is never granted before trial, save in exceptional and extremely rare cases (*Gibb & Co v Malaysia Building Society Bhd* [1982] 1 MLJ 271).

[14] The case for granting a mandatory interim injunction must be unusually strong and clear, where the court must feel a high degree of assurance that at the trial, a similar injunction would probably be granted. It must be kept in mind that questions of degree are involved, which depend, inter alia, upon considerations of hardship to the parties. The court must consider how the interests of the parties may best be protected, bearing in mind both the position of the parties subsequently at the final hearing and also questions of hardship and inconvenience in the meantime, and will take into account any other

relevant discretionary considerations which may arise. One of the most important circumstances which will be taken into account by the court is the degree of probability with which it appears to be established that the applicant will ultimately succeed at the final hearing. The stronger the case of the applicant that the matters complained of are unlawful, the more likely it is that it will be found to be just and equitable that his interests be protected by the immediate issue of such an injunction.

(See *Tinta Press Sdn Bhd v Bank Islam Malaysia Bhd* [1987] 2 MLJ 192; [1987] CLJ Rep 396; *Karuppannan v Balakrishnen (Chong Lee Chin & Ors, third parties)* [1994] 3 MLJ 584; [1994] 4 CLJ 479; *Timbermaster Timber Complex (Sabah) Sdn Bhd v Top Origin Sdn Bhd* [2002] 1 MLJ 33; [2002] 1 CLJ 566.)

DECISION OF THE COURT

[15] The plaintiffs applied for a mandatory interim injunction based on the above facts to bring down the video titled 'saya takut mati luar Islam,' which was uploaded from the TikTok account under the name of @brofirdauswong (https://vt.tiktok. com/ZSYrfNxDg) and any other social media account of the defendant.

[16] The undisputed facts are as follows:

(a) the video in question was in fact made, uploaded, and circulated by the defendant;

(b) the person giving advice in the said video is the defendant; and

(c) the transcript of the video in question is accurate, and the defendant has not disputed the accuracy of the said transcript.

[17] The video speaks for itself. The defendant make abundantly clear that he has given advise to convert underaged non-Muslim children without their parents' knowledge and, more importantly, how to hide the conversion from their families.

[18] What the defendant did in the video is a breach of art 12(4) of the Federal Constitution, which provides that the religion of a person under the age of 18 years shall be decided by his parent or guardian. The video further shows that the defendant is aware of this fact, ie, that the religion of a person under the age of 18 years shall be decided by his parent or guardian, and he advises how to hide the conversion from the parents and family members. The defendant knows that his advice is in breach of the Federal Constitution.

[19] I am satisfied that there is a serious bona fide issue to be tried,

ie, whether the advice is in breach of the right entrenched in art 12(4) of the Federal Constitution.

[20] The balance of convenience in the present case lies in favour of the plaintiffs. If the mandatory interim injunction is not granted, the plaintiffs would suffer a risk of irreparable damage if any of their children are converted to Islam without their knowledge and/or consent. By contrast, the defendant's rights over the said video are merely postponed after the disposal of the instant originating summons. The injury to the plaintiffs is higher than if the video is taken down.

[21] The justice in the present case lies with the plaintiffs. An award of money may provide no adequate compensation if the plaintiff's children are converted without their knowledge. Further, the issue of conversion is a serious matter in our country.

[22] I am satisfied that the case for granting the interim mandatory injunction sought is unusually strong and clear. This court feels a high degree of assurance that at the trial, a similar injunction would probably be granted. Having considered and weighed the hardship and damage on both sides, I am satisfied that the interest of the parties is best protected by the granting of the mandatory interim injunction. The case for the plaintiff is so strong on the undisputed facts, in particular, that the defendant knows his advice is violating art 12(4) of the Federal Constitution, it is just and equitable for the immediate issue of the mandatory interim injunction.

[23] For the above reasons, I granted the mandatory interim injunction sought by the plaintiffs.

Mandatory interim injunction sought by plaintiffs granted.

Reported by Ashok Kumar